

1 Sherrie R. Savett
2 Barbara A. Podell
3 Phyllis M. Parker
4 BERGER & MONTAGUE, P.C.
5 1622 Locust Street
6 Philadelphia, PA 19103
Telephone: (215) 875-3000
Facsimile: (215) 875-4604
Email: ssavett@bm.net
Email: bpodell@bm.net
Email: pparker@bm.net

Andrew M. Schatz
Jeffrey S. Nobel
Nancy A. Kulesa
SCHATZ NOBEL IZARD, P.C.
One Corporate Center
20 Church Street, Suite 1700
Hartford, CT 06103
Telephone: (860) 493-6292
Facsimile: (860) 493-6290
Email: aschatz@snilaw.com
Email: jnobel@snilaw.com
Email: nkulesa@snilaw.com

Proposed Co-Lead Counsel for Plaintiffs

10 Dennis J. Herman (220163)
COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP
11 100 Pine Street, Suite 2600
San Francisco, CA 94111
12 Telephone: (415) 288-4545
Facsimile: (415) 288-4534
13 Email: dennish@csgrr.com

14 | Proposed Liaison Counsel for Plaintiffs

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

19 ELECTRICAL WORKERS PENSION FUND,) No. 3:07-cv-04056-MJJ
20 LOCAL 103, I.B.E.W., On Behalf of Itself and) CLASS ACTION
21 All Others Similarly Situated)
22 Plaintiff,) [PROPOSED] ORDER CONSOLIDATING
23 vs.) RELATED ACTIONS, APPOINTING JUAN
24 NUVELO, INC., et al.,) PABLO CABRERA, FRANK C. PETRONIS
25 Defendants.) AND PATRICIA A. PETRONIS AND TODD
26) A. STEPHENS AND AMY STEPHENS AS
) LEAD PLAINTIFFS AND APPROVING
) THEIR CHOICE OF COUNSEL AS CO-
) LEAD COUNSEL
) DATE: October 2, 2007
) TIME: 9:30 a.m.
) COURTROOM: The Hon. Martin J. Jenkins

Having considered the papers in support of the various motions for appointment of lead plaintiff and consolidation of related actions filed pursuant to Section 21D(a)(3)(B) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78u-4(a)(3)(B), and the Consolidated Response to Pending Motions of All Lead Applicants Regarding the Appointment of Lead Plaintiffs and Co-Lead Counsel for good cause shown, the Court hereby enters the following Order:

I. CONSOLIDATION

1. Pursuant to Federal Rule of Civil Procedure 42 and § 78u-4(a)(3)(B)(ii) of the Exchange Act, as amended by the Private Securities Litigation Reform Act of 1995 (“PSLRA”), the following actions are hereby consolidated for all purposes into one action:

<u>Abbreviated Case Name</u>	<u>Case Number</u>	<u>Date Filed</u>
<i>Electrical Workers Pension Fund, Local 103, I.B.E.W. et al. v. Nuvelo, Inc. et al.</i>	3:07-cv-04056-MJJ	08/08/07
<i>Logan v. Nuvelo, Inc. et al.</i>	3:07-cv-04057-MJJ	08/08/07
<i>Giles v. Nuvelo, Inc. et al.</i>	3:07-cv-04058-MJJ	08/08/07
<i>Braker v. Nuvelo, Inc. et al.</i>	3:07-cv-04059-MJJ	08/08/07

2. These actions shall be referred to as the “Consolidated Action.” This order shall apply to the Consolidated Action and to each case that is subsequently filed in this Court or transferred to this Court that relates to the same subject matter as in the Consolidated Action.

3. Every pleading in this Consolidated Action shall bear the following caption:

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

In re NUVELO, INC. SECURITIES) Master File No. 07-cv-04056-MJJ
LITIGATION)
)

CLASS ACTION

This Documents Relates To:) [TITLE OF DOCUMENT]

4. When the document being filed pertains to all actions, the phrase “All Actions” shall [3:07-cv-04056-MJJ] - [PROPOSED] ORDER CONSOL. RELATED ACTIONS, APPTING JUAN PABLO CABRERA, FRANK C. PETRONIS & PATRICIA A. PETRONIS & TODD A. STEPHENS & AMY STEPHENS AS LD PLTFFS & APPROVING THEIR CHOICE OF COUNSEL AS CO-LD COUNSEL

1 appear immediately after the phrase "This Document Relates To:". When a document applies to
2 some, but not all, of the actions, the document shall list, immediately after "This Document Relates
3 To:", the docket number for each individual action to which the document applies, along with the
4 name of the first-listed plaintiff in said action.

5 5. This Court requests the assistance of counsel in calling to the attention of the Clerk of
6 this Court the filing or transfer of any case which might properly be consolidated as part of this
7 Consolidated Action.

9 **II. MASTER DOCKET AND MASTER FILE**

10 6. A Master Docket and Master File shall be established for the Consolidated Action.
11 The Master File shall be No. 07-cv-04056-MJJ. All orders, pleadings, motions and other documents
12 shall, when filed and docketed in the Master file, be deemed filed and docketed in each individual
13 case to the extent applicable. When an order, pleading, motion or document is filed with a caption
14 indicating that it is applicable to fewer than all of these consolidated action, the clerk shall file such
15 pleadings in the Master File and note such filing in the Master Docket and in the docket of each
16 action referenced.

18 **III. NEWLY-FILED OR TRANSFERRED ACTIONS**

19 7. When a case that arises out of the subject matter of this action is hereinafter filed in
20 this Court or transferred to this Court from another court, the Clerk of this Court shall:

- 22 a. file a copy of this Order in the separate file for such action;
- 23 b. mail a copy of this Order to the attorneys for the plaintiff(s) in the newly filed or
24 transferred case and to any new defendant(s) in the newly filed or transferred case; and
- 25 c. make the appropriate entry in the docket for this action.

26 8. Each new case which arises out of the subject matter of this Consolidated Action that

27 [3:07-cv-04056-MJJ] - [PROPOSED] ORDER CONSOL. RELATED ACTIONS, APPTING JUAN PABLO
28 CABRERA, FRANK C. PETRONIS & PATRICIA A. PETRONIS & TODD A. STEPHENS & AMY
STEPHENS AS LD PLTFFS & APPROVING THEIR CHOICE OF COUNSEL AS CO-LD COUNSEL

1 is filed in this Court or transferred to this Court shall be consolidated with this action and this Order
2 shall apply thereto, unless a party objecting to this Order or any provision of this Order shall, within
3 ten (10) days after the date upon which a copy of this Order is served on counsel for such party, files
4 an application for relief from this Order or any provision herein and this Court deems it appropriate
5 to grant such application.
6

7 9. During the pendency of this litigation, or until further order of this Court, the parties
8 shall take reasonable steps to preserve all documents within their possession, custody or control,
9 including computer-generated and stored information and materials such as computerized data and
10 electronic mail, containing information that is relevant to or which may lead to discovery of
11 information relevant to the subject matter of the pending litigation.

12 **IV. APPOINTMENT OF LEAD PLAINTIFFS AND LEAD PLAINTIFFS' COUNSEL**

13 10. Juan Pablo Cabrera ("Cabrera") and Frank C. Petronis, Patricia A. Petronis, Todd A.
14 Stephens, and Amy Stephens (the "Petronis Group") have moved the Court to be appointed as Lead
15 Plaintiffs in the Consolidated Action and to approve their selection of Co-Lead Counsel.

16 11. Having considered the provisions of § 21D(a)(3)(B) of the PSLRA, 15 U.S.C. § 78u-
17 4(a)(3)(B), and each of the lead plaintiff motions, including the consolidated response, the Court
18 hereby concludes that Cabrera and the Petronis Group are the "most adequate plaintiffs" and that
19 they satisfy the requirements of § 21D of the PSLRA. The Court hereby appoints Cabrera and the
20 Petronis Group to be Lead Plaintiffs in the Consolidated Action against Nuvelo, Inc. and the other
21 defendants and to represent the interests of the Class.

22 12. Pursuant to § 21D(a)(3)(B)(v) of the PSLRA, 15 U.S.C. § 78u-4(a)(3)(B)(v), the Lead
23 Plaintiffs have selected and retained the law firms of Berger & Montague, P.C. and Schatz Nobel
24 Izard, P.C. to serve as Co-Lead Counsel and Coughlin Stoia Geller Rudman & Robbins LLP as

25 [3:07-cv-04056-MJJ] - [PROPOSED] ORDER CONSOL. RELATED ACTIONS, APPTING JUAN PABLO
26 CABRERA, FRANK C. PETRONIS & PATRICIA A. PETRONIS & TODD A. STEPHENS & AMY
27 STEPHENS AS LD PLTFFS & APPROVING THEIR CHOICE OF COUNSEL AS CO-LD COUNSEL

1 Liaison Counsel. The Court hereby appoints Schatz Nobel Izard, P.C. and Berger & Montague,
2 P.C., as Co-Lead Counsel and Coughlin Stoia Geller Rudman & Robbins LLP as Liaison Counsel.

3 13. Co-Lead Counsel shall have the authority to speak for all plaintiffs and class members
4 in all matters regarding the litigation including, but not limited to, pre-trial proceedings, motion
5 practice, trial and settlement, and shall make all work assignments in such a manner as to facilitate
6 the orderly and efficient prosecution of this litigation and to avoid duplicative or unproductive effort.
7

8 Additionally, Co-Lead Counsel shall have the following responsibilities:

- 9 a. to brief and argue motions;
- 10 b. to initiate and conduct discovery including, without limitation, coordination of
11 discovery with defendants' counsel, the preparation of written interrogatories, requests for
12 admissions and requests for production of documents;
- 13 c. to direct and coordinate the examination of witnesses in depositions;
- 14 d. to act as spokesperson at pretrial conferences;
- 15 e. to call and chair meetings of plaintiffs' counsel as appropriate or necessary
16 from time to time;
- 17 f. to initiate and conduct any settlement negotiations with counsel for defendants;
- 18 g. to provide general coordination of the activities of plaintiffs' counsel and to
19 delegate work responsibilities to selected counsel as may be required in such a manner as to lead to
20 the orderly and efficient prosecution of this litigation and to avoid duplication or unproductive effort;
- 21 h. to consult and employ experts;
- 22 i. to receive and review periodic time reports of all attorneys on behalf of plaintiffs, to
23 determine if the time is being spent appropriately and for the benefit of plaintiffs, and to determine
24 and distribute plaintiffs' attorneys' fees; and

25 [3:07-cv-04056-MJJ] - [PROPOSED] ORDER CONSOL. RELATED ACTIONS, APPTING JUAN PABLO
26 CABRERA, FRANK C. PETRONIS & PATRICIA A. PETRONIS & TODD A. STEPHENS & AMY
27 STEPHENS AS LD PLTFFS & APPROVING THEIR CHOICE OF COUNSEL AS CO-LD COUNSEL

j. to perform such other duties as may be expressly authorized by further order of this Court.

14. Co-Lead Counsel and Liaison Counsel shall be responsible for coordinating all activities and appearances on behalf of the Class and for disseminating notices and orders of this Court.

15. No motion, application or request for discovery shall be served or filed, or other pretrial proceedings initiated, on behalf of Lead Plaintiffs, except through Co-Lead Counsel or Liaison Counsel.

16. All notices, proposed orders, pleadings, motions, discovery, and memoranda shall be served upon Co-Lead Counsel and Liaison Counsel by overnight mail service, telecopy, e-mail, or hand delivery.

17. Co-Lead Counsel and Liaison Counsel for the Class shall be available and responsible for communications to and from the Court.

18. Defendants' counsel may rely upon all agreements made with the Co-Lead Counsel, Liaison Counsel or other duly authorized representatives of Lead Plaintiffs.

DATED:

**THE HON. MARTIN J. JENKINS
UNITED STATES DISTRICT JUDGE**

1 Submitted by:

2 DATED: September 11, 2007

3 **COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP**

4 /s/ Dennis J. Herman

5 Dennis J. Herman (220163)
6 100 Pine Street, Suite 2600
7 San Francisco, CA 94111
8 Telephone: (415) 288-4545
9 Facsimile: (415) 288-4534

10 *Proposed Liaison Counsel for Plaintiffs*

11 I, Dennis J. Herman, am the ECF User whose ID and password are being used to file this
12 [PROPOSED] ORDER CONSOLIDATING RELATED ACTIONS, APPOINTING JUAN PABLO
13 CABRERA, FRANK C. PETRONIS AND PATRICIA A. PETRONIS AND TODD A. STEPHENS
14 AND AMY STEPHENS AS LEAD PLAINTIFFS AND APPROVING THEIR CHOICE OF
15 COUNSEL AS CO-LEAD COUNSEL. In compliance with General Order 45, X.B., I hereby attest
16 that the undersigned have concurred in this filing.

17 /s/ Dennis J. Herman
18 DENNIS J. HERMAN

19 **SCHATZ NOBEL IZARD, P.C.**

20 /s/ Andrew M. Schatz

21 Jeffrey S. Nobel
22 Nancy A. Kulesa
23 One Corporate Center
24 20 Church Street, Suite 1700
25 Hartford, CT 06103

26 *Proposed Co-Lead Counsel for Lead
Plaintiff Movant Juan Pablo Cabrera*

27 **BERGER & MONTAGUE, P.C.**

28 /s/ Sherrie R. Savett

29 Barbara A. Podell
30 Phyllis M. Parker
31 1622 Locust Street
32 Philadelphia, PA 19103

33 *Proposed Co-Lead Counsel for Lead Plaintiff Movants
34 Frank C. Petronis and Patricia A. Petronis,
35 Todd A. Stephens and Amy Stephens*

36 T:\CasesSF\Nuvelo\ORD00045461.doc

37 [3:07-cv-04056-MJJ] - [PROPOSED] ORDER CONSOL. RELATED ACTIONS, APPTNG JUAN PABLO
38 CABRERA, FRANK C. PETRONIS & PATRICIA A. PETRONIS & TODD A. STEPHENS & AMY
39 STEPHENS AS LD PLTFFS & APPROVING THEIR CHOICE OF COUNSEL AS CO-LD COUNSEL

CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 11, 2007.

s/ Dennis J. Herman
DENNIS J. HERMAN

COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP
100 Pine Street, 26th Floor
San Francisco, CA 94111
Telephone: 415/288-4545
415/288-4534 (fax)

E-mail:dennish@csgrr.com

[3:07-cv-04056-MJJ] - [PROPOSED] ORDER CONSOL. RELATED ACTIONS, APPTING JUAN PABLO CABRERA, FRANK C. PETRONIS & PATRICIA A. PETRONIS & TODD A. STEPHENS & AMY STEPHENS AS LD PLTFFS & APPROVING THEIR CHOICE OF COUNSEL AS CO-LD COUNSEL

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Scott Devereaux**
devereauxsd@cooley.com
- **Grant P. Fondo**
gfondo@cooley.com,sholloway@cooley.com,mcintoshjc@cooley.com
- **Dennis J. Herman**
dennish@csgrr.com,e_file_sf@csgrr.com
- **Christopher J. Keller**
ckeller@labaton.com,cchan@labaton.com
- **Nicole Catherine Lavallee**
nlavallee@bermanesq.com,ysoboleva@bermanesq.com
- **Alan Roth Plutzik**
aplutzik@bramsonplutzik.com
- **David Avi Rosenfeld , Esq**
drosenfeld@geller-rudman.com

Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

Mario Alba
Lerach Coughlin Stoia Geller Rudman & Robbins LLP
58 South Service Road
Suite 200
Melville, NY 11747

Phyllis M. Parker
Berger & Montague PC
1622 Locust Street
Philadelphia, PA 19103

Barbara A. Podeil
Berger & Montague PC
1622 Locust Street
Philadelphia, PA 19103

Samuel Howard Rudman
Lerach Coughlin Stoia Geller Rudman & Robbins LLP
58 South Service Road
Suite 200
New York, NY 11747

Sherrie R. Savett
Berger & Montague, P.C.
1622 Locust Street
Philadelphia, PA 19103

Marisa Megur Seifan
Cooley Godward Kronish LLP

Evan J. Smith
Brodsky & Smith L.L.C.
240 Mineola Blvd.
Mineola, NY 11501

Nicolette Tropiano
Schiffrin Barroway Topaz & Kessler LLP
280 King of Prussia Road
Radnor, PA 19087